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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,113	09/27/2004	Kenichi Tanaka	HEIW:038	1254
27890 7590 03/13/2008 STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036				
EXAMINER				
PASCUA, JES F				
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3782				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/509,113

**Applicant(s)**

TANAKA ET AL.

**Examiner**

Jes F. Pascua

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,486,051 to May and U.S. Patent No. 5,369,847 to Naya et al.

May discloses the claimed device except for the pair of tapes (16, 18, 16a, 18a) having projected parts formed in projected lines generally along the edges of the pair of tapes towards the opening part of the bag body, and protruding inwardly and outwardly. Naya et al. discloses that it is known in the art to provide inwardly projected parts (8, 9, 10, 11, 8', 9', 10', 11') and outwardly projected parts (12, 13) in projected lines generally along the edges of a pair of analogous tapes (1, 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pair of tapes of May with the projected parts of Naya et al., in order to facilitate separating the male and female clamping parts. Since the pair of tapes of May are located below the opening part of the bag body (Figs. 2 and 4), providing the pair of tapes of May with the projected parts of Naya et al., as discussed above, would inherently result in the projected parts being formed towards the opening part of the bag body and positioned inside the opening edge part of the bag body as claimed. Furthermore, the flexible

characteristics of the May bag body would inherently permit projected parts, like those of Naya et al., to be functionally accessible from the inner and outer face sides of the bag body as claimed.

Regarding claim 2, the combination of May and Naya et al., as discussed above, inherently meets the recitation "wherein the projections disposed on the pair of tapes are not thermally fused onto the inner face of the bag body".

Regarding claim 4, May and Naya et al. disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction inside and outside the bag body being 0.3 mm or more and not more than a distance between the faces of the tapes. It would have been an obvious matter of design choice to make the projected parts of Naya et al. with a maximum width of 0.3 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claim 5, May and Naya et al. disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.5 mm or more and  $\frac{1}{2}$  or less of a distance between the faces of the tapes. It would have been an obvious matter of design choice to make the projected parts of Naya et al. with a maximum width of 0.5 mm or more and

½ or less of a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claim 7, May and Naya et al. disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.3 mm or more and 2.0 or less. It would have been an obvious matter of design choice to make the projected parts of Naya et al. with a maximum width of 0.3 mm or more and 2.0 or less, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claim 8, May and Naya et al. disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.5 mm or more and 2.0 or less. It would have been an obvious matter of design choice to make the projected parts of Naya et al. with a maximum width of 0.5 mm or more and 2.0 or less, since such a modification would have involved a mere change in the size of a component. A change in size is

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generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claim 9, May and Naya et al. disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.3 mm or more and not more than a distance between the faces of the tapes. It would have been an obvious matter of design choice to make the projected parts of Naya et al. with a maximum width of 0.3 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claim 10, May and Naya et al. disclose the claimed invention, as discussed above, except for maximum width of the projected part in a direction on inner and outer face sides of the bag body being 0.5 mm or more and not more than a distance between the faces of the tapes. It would have been an obvious matter of design choice to make the projected parts of Naya et al. with a maximum width of 0.5 mm or more and not more than a distance between the faces of the tapes, since such a modification would have involved a mere change in the size of a component. A change

in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claim 11, May and Naya et al. disclose the claimed invention, as discussed above, except for the shift of the projected part in a depth direction of the bag body being in the range of 1.0 mm to 2.0 mm. It would have been an obvious matter of design choice to shift of the projected part of Naya et al. in a depth direction of the bag body being in the range of 1.0 mm to 2.0 mm , since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art absent any showing of criticality and unexpected result. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

Regarding claims 12 and 13, May and Naya et al. disclose the claimed device, as discussed above, except for the shape of the projected part constituting a protruded line circular or angular. It would have been an obvious matter of design choice to make the projected parts of Naya et al. circular or angular or of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. Since applicant did not traverse the Examiner's statement of obvious design choice in the response, filed 12/12/2007, the Examiner's statement is taken be admitted prior art.

***Response to Arguments***

3. Applicant's arguments filed 12/12/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that "there is no disclosure or suggestion in any of May Naya, or anything else in this record that would have suggested the desirability of combining any portions thereof effectively to anticipate or render obvious applicants' claimed invention", the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this case, May discloses that tapes bonded to a bag body near an opening part of the bag are known. Naya et al. suggests providing projected parts on tapes in order to facilitate separating male and female clamping parts formed on the tapes.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/  
Primary Examiner, Art Unit 3782